

(2) Shall perform quality assurance when requested by a NATO country.

(C) The U.S. Government reserves the right to require reimbursement for work it performs for other NATO countries and organizations.

(ii) *NATO Standardization Agreement (STANAG) 4108, Allied Quality Assurance Publications*. (A) STANAG 4108 provides for the application of Allied Quality Assurance Publications (AQAPs).

(B) Its annexes list AQAPs and the criteria for applying those AQAPs which are required in contracts between NATO countries.

(2) *International military sales (non-NATO)*. Departments and agencies shall—

(i) Perform quality assurance services on international military sales contracts or in accordance with existing agreements;

(ii) Ensure conformance to the technical and quality requirements of international military sales contracts;

(iii) Inform host or U.S. Government personnel and contractors on the use of quality assurance publications;

(iv) Specify appropriate quality requirements in contracts awarded to other countries; and

(v) Delegate quality assurance to the host government when satisfactory services are available.

(3) *Reciprocal quality assurance agreements*. A Memorandum of Understanding (MOU) with a foreign country may contain an annex that provides for the reciprocal performance of quality assurance services. MOUs should be checked to determine whether such an annex exists for the country where a defense contract will be performed. (See subpart 225.74 for more information about MOUs.)

246.407 Nonconforming supplies or services.

(1) Contracting officers shall use the following MIL-STD-109 definitions in determining conformance with contract requirements—

(i) *Critical nonconformance* is a nonconformance that judgment and experience indicate—

(A) Is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or

(B) Is likely to prevent performance of a vital agency mission.

(ii) *Major nonconformance* is a nonconformance, other than critical, that is likely to result in failure, or to materially reduce the usability of the supplies or services for their intended purpose.

(iii) *Minor nonconformance* is a nonconformance that is not likely to materially reduce the usability of the supplies or services for their intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the supplies or services.

(2) Contracting officers shall ensure that—

(i) Nonconformances are identified; and

(ii) The significance of a nonconformance is established when considering the acceptability of supplies or services which do not meet contract requirements.

(f) If nonconforming material or services are discovered after acceptance, the defect appears to be the fault of the contractor, any warranty has expired, and there are no other contractual remedies, the contracting officer—

(i) Shall notify the contractor in writing of the nonconforming material or service;

(ii) Shall request that the contractor repair or replace the material, or perform the service, at no cost to the Government; and

(iii) May accept consideration if offered. For guidance on solicitation of a refund, see subpart 242.71.

246.408 Single-agency assignments of Government contract quality assurance.

246.408-70 Subsistence.

(a) The Surgeons General of the military departments are responsible for—

(1) Acceptance criteria;

(2) Technical requirements; and

(3) Inspection procedures needed to assure wholesomeness of foods.

(b) The contracting office may designate any Federal activity, capable of assuring wholesomeness and quality in food, to perform quality assurance for subsistence contract items. The designation may—